

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:08CR440
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
TABATHA A. VEASLEY,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report ("PSR") and the parties' objections thereto (Filing Nos. 55, 56). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Both parties object to the drug quantity and base offense level in paragraph 30, which are higher than those agreed upon in the plea agreement. The Court's tentative finding is that the plea agreement should be upheld and the drug quantity (at least 5 but less than 20 grams of cocaine base) and base offense level of 24 agreed upon by the parties should be used. The objections to ¶ 30 are granted.

The government also objects to 3 levels for acceptance of responsibility being awarded in ¶ 37. The plea agreement states that the parties agreed that 2 levels of acceptance of responsibility would be awarded. The objection is granted.

The Defendant objects to inconsistent language in ¶ 31 indicating that a dangerous weapon enhancement might be applied. The objection is granted.

The Defendant objects to the lack of a minimal role adjustment in ¶ 33. The objection will be heard at sentencing, and the Defendant has the burden of proof by a preponderance of the evidence.

IT IS ORDERED:

1. The Court's Tentative Findings regarding the Defendant's objections (Filing No. 56) are as follows:
 - a. The objection to ¶ 33 will be heard at sentencing; and
 - b. The Defendant's objections to ¶¶ 30 and 31 are granted;
2. The government's objections (Filing No. 55) are granted;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 21st day of December, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge